

SCANNED

DATE: 7/15/04

BY: F-041

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2004 JUL -1

04 11565 RCL

U.S. DISTRICT COURT
DISTRICT OF MASS.

JASON FILES,
Plaintiff

v.

MAGISTRATE JUDGE

MASSACHUSETTS DEPARTMENT
OF CORRECTIONS,
Defendant

RECEIPT # 57264
AMOUNT \$150
SUMMONS ISSUED YES
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. FOM
DATE 7/19/04

COMPLAINT AND DEMAND FOR JURY TRIAL

PARTIES

1. Jason Files is an individual residing at 13 Oakwood Drive, Randolph, Norfolk County, Massachusetts.
2. The Massachusetts Department of Corrections ("Department of Corrections"), as defined by Massachusetts General Law, Chapter 27, is responsible for the correctional facilities maintained by the Commonwealth of Massachusetts.

FACTUAL ALLEGATIONS

3. On or about December 31, 2002, Jason Files was an individual committed to the care of the Massachusetts Treatment Center ("Treatment Center"), located in Bridgewater, Plymouth County, Massachusetts pursuant to Massachusetts General Laws Chapter 123, §5.
4. The Treatment Center was, at all relevant times, operated and maintained by the Department of Corrections.
5. At the same day and time, an individual, identified only as Sergeant Jackson, was on duty in his position as a correctional officer at the Treatment Center and employed by the Department of Corrections.
6. At the same day and time, Jason Files was subjected to crude and disparaging remarks by Sgt. Jackson.
7. Sgt Jackson then grabbed Plaintiff, pulled him off his bunk and began to strike him.
8. As Jason Files attempted to protect himself by passive means, Sgt. Jackson began to repeatedly kick the plaintiff in the stomach.
9. As a result of the blows being struck, Mr. Files was injured.

10. On January 6, 2003, Plaintiff Jason Files through his attorney sent, via certified mail, a demand letter to the Department of Corrections for damages, including assault and battery, violation of civil rights as defined by M.G.L. c. 121, §111 and 42 U.S.C. § 1983, suffered as a result of the actions of Sgt. Jackson pursuant to Massachusetts General Laws chapter 258, Massachusetts Tort Claims Act. (Exhibit "A").
11. That as of the filing of this complaint, no response to Plaintiff's Massachusetts Tort Claims Act letter has been received.

COUNT I
(NEGLIGENT HIRING V. THE DEPARTMENT OF CORRECTIONS)

12. Plaintiff Jason Files realleges and incorporates by reference the allegations set forth in Paragraphs 1 through 11 of this Complaint as if set out in full herein.
13. The defendant, his agents, servants, and/or employees negligently hired unqualified and/or inexperienced persons to positions in the Department of Corrections.
14. As a result thereof, the plaintiff was injured, has incurred expenses for medical care and attendance and has been prevented from engaging in his normal activities for a substantial period of time and will continue to incur expenses for medical care and attendance and will be prevented from engaging in his normal activities for a substantial period of time and as long as he lives, and has suffered great pain of body and anguish of mind, and will continue to suffer great pain of body and anguish of mind.

WHEREFORE, Plaintiff, Jason Files, demands judgment against Defendant, Department of Corrections, in an amount which the Court would deem just and reasonable, plus costs, interest and attorney fees.

COUNT II
(NEGLIGENT SUPERVISION V. DEPARTMENT OF CORRECTIONS)

15. The plaintiff realleges and incorporates by reference the allegations set forth in Paragraphs 1 through 14 of this Complaint as if set out in full herein.
16. The defendant, through its agents, servants and/or employees negligently failed to supervise those persons whose job it was to maintain and safeguard the security and well being of those individuals housed at the Massachusetts Treatment Center pursuant to Massachusetts General Laws Chapter 123, §5.
17. As a result thereof, the plaintiff was injured, has incurred expenses for medical care and attendance and has been prevented from engaging in his normal activities for a substantial period of time and will continue to incur expenses for medical care and attendance and will be prevented from engaging in his normal activities for a substantial period of time and

as long as he lives, and has suffered great pain of body and anguish of mind, and will continue to suffer great pain of body and anguish of mind.

WHEREFORE, Plaintiff, Jason Files, demands judgment against defendant, Department of Corrections, in an amount which the Court would deem just and reasonable, plus costs, interest and attorney fees and punitive damages in an amount this Honorable Court determines is fair and just.

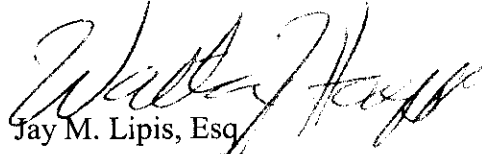
**COUNT III
(VIOLATION OF FEDERAL CIVIL RIGHTS ACT V. DEPARTMENT OF
CORRECTIONS)**

18. Plaintiff, Jason Files, incorporates by reference the allegations set forth in Paragraphs 1 through 17 of this Complaint as if set out in full herein.
19. That the Department of Corrections is responsible for the actions of Sgt Jackson and other corrections officers while they are acting within the scope of their employment and under authority and color law, and which resulted in the violations of Plaintiff, Jason Files's civil rights as guaranteed by the United States Constitution and as such is responsible for the violation of the Federal Civil Rights Act as defined in 42 United States Code, § 1983.
20. As a result thereof, Plaintiff, Jason Files, was injured, has incurred expenses for medical care and attendance and has been prevented from engaging in his normal activities for a substantial period of time and will continue to incur expenses for medical care and attendance and will be prevented from engaging in his normal activities for a substantial period of time and as long as he lives, and has suffered great pain of body and anguish of mind, and will continue to suffer great pain of body and anguish of mind.

WHEREFORE, Plaintiff, Jason Files, demands judgment against Defendant, Department of Corrections, in an amount which the Court would deem just and reasonable, plus costs, interest and attorney fees and punitive damages in an amount this Honorable Court determines is fair and just.

PLAINTIFF HEREBY REQUESTS A JURY TRIAL ON ALL ISSUES.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay M. Lipis", is written over the typed name and the first two lines of the address.

Jay M. Lipis, Esq.

BBO No.: 545771

Walter J. Hayes, Jr.

BBO No.: 641507

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Dated: June 21, 2004